

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:08-cr-296-01

v.

HONORABLE PAUL L. MALONEY

SHAWN MCKENZIE SMITH,

Defendant.

_____ /

ORDER GRANTING IN PART AND DENYING IN PART
MOTION TO PROCEED IN FORMA PAUPERIS

Defendant was sentenced on July 27, 2009 after being convicted of Distribution of Child Pornography. Defendant filed a notice of appeal on August 7, 2009

Defendant now requests this Court allow counsel for defendant to withdraw his appearance as counsel of record and allow Defendant to proceed in forma pauperis, waive the required filing fees and any costs associated with copies of the transcripts. It appears from the financial affidavit submitted by defendant in support of his request that he is financially unable to pay the costs of appeal and is entitled to proceed in forma pauperis without prepayment of fees and costs. The Court will grant the request to proceed in forma pauperis.

Turning to the question of who will represent defendant on appeal, Sixth Circuit Rule 101(a) states that trial counsel in criminal cases, whether retained or appointed by

the district court, is responsible for the continued representation of the client on appeal until specifically relieved by the appellate court. Therefore, this Court does not have jurisdiction to allow counsel to withdraw.

Accordingly, this Court will **GRANT** defendant's request to proceed in forma pauperis on appeal and **DENY** counsel's request to withdraw as it is without jurisdiction to rule on said motion.

Date: August 19, 2009

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge